

REMARKS

Claims 1-20 were pending in this application.

Claims 1-20 have been rejected.

No claims have been amended.

Claims 1-20 remain pending in this application.

Reconsideration and full allowance of Claims 1-20 are respectfully requested.

I. OBJECTION TO SPECIFICATION

The Office Action objects to the specification because it lacks serial numbers for three related patent applications. The Applicants have amended the specification to include the serial numbers for the three related patent applications. The Applicants respectfully request withdrawal of the objection.

II. STATUS OF CLAIMS

The Applicants respectfully note that the Office Action Summary indicates that Claims 1-20 have been rejected. However, the Office Action only rejects Claims 2, 10, and 18 under 35 U.S.C. § 112. As a result, the remaining claims in the application should be allowable because there are no outstanding rejections of those claims.

III. REJECTION UNDER 35 U.S.C. § 112

The Office Action rejects Claims 2, 10, and 18 under 35 U.S.C. § 112, first paragraph, as

failing to comply with the enablement requirement. In particular, the Office Action asserts that the phrase “channel order” is not enabled by the Applicants’ disclosure. The Applicants respectfully traverse this rejection.

The enablement requirement requires that a patent application describe how to make and use the claimed invention. (*MPEP* § 2164). To establish non-enablement, the burden is on the Patent Office to show that a person skilled in the art cannot make and use the claimed invention “without undue experimentation.” (*MPEP* § 2164.01). There are many factors to be considered when determining whether a disclosure satisfies the enablement requirement, including the breadth of the claims, the state of the prior art, the level of one of ordinary skill, the level of predictability in the art, and the amount of direction provided by the inventor. (*MPEP* § 2164.01(a)).

First, the Applicants respectfully note that the Office Action contains no analysis of the enablement factors. In particular, the Office Action fails to analyze the various factors and show that a person skilled in the art cannot make and use the claimed invention without undue experimentation. In fact, the Office Action fails to even mention the phrase “undue experimentation.” As a result, the Office Action has not met its burden of establishing non-enablement.

Second, the Applicants respectfully note that the specification as originally filed recites that the “order” of a channel is “equal to the length of the channel minus one.” (*Application, Page 28, Lines 4-6*). Based on this and the knowledge generally available to one skilled in the art at the time of filing, the phrase “channel order” is enabled by the Applicants’ specification as

originally filed.

For these reasons, the Applicants respectfully submit that the specification as originally filed enables the claimed invention as recited in Claims 2, 10, and 18. Accordingly, the Applicants respectfully request withdrawal of the § 112 rejection and full allowance of Claims 2, 10, and 18.

IV. CONCLUSION

The Applicants respectfully assert that all pending claims in the application are in condition for allowance and respectfully request an early allowance of such claims.

SUMMARY


If any issues arise, or if the Examiner has any suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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